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No. 92-597

In The

Supreme Court of the United States

October Term, 1992

THE 1975 SALARIED RETIREMENT PLAN FOR ELIGIBLE EMPLOYEES OF CRUCIBLE, INC., *ET AL.*,

Petitioners,

vs.

DAVID A. NOBERS, *ET AL.*,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED FOR REVIEW

Was the District Court's denial of injunctive relief, as affirmed by the Court of Appeals for the Third Circuit, required by Anti-Injunction Act, 28 U.S.C. § 2283?

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SUMMARY OF ARGUMENT

The Anti-Injunction Act, 28 U.S.C. § 2283 prohibits the injunctive relief sought by Petitioners.

An injunction is not authorized in aid of the District Court's jurisdiction because the state claims in *Nobers, et al. v. Crucible, Inc., et al.*, No. 843 of 1984, Court of Common Pleas of Beaver

County, Pennsylvania (*Nobers II*), are not preempted by the Employees Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* (ERISA). *Nobers v. Crucible,* 602 F. Supp. 703 (W.D. Pa. 1985); *Nobers v. Crucible,* 376 Pa. Super. 156, 545 A.2d 367 (1988). Even if the state claims in *Nobers II* are preempted, the Petitioner plans are not parties to *Nobers II* (which does not purport to determine the plans' obligations), and therefore an injunction is not necessary in aid of the District Court's jurisdiction in this case.

An injunction is not authorized to protect or effectuate a judgment of the District Court because *Nobers II* does not seek to relitigate *Nobers I. Colt v. Nobers,* No. 85-563 (W.D. Pa. 1985), *aff'd without opinion,* 787 F.2d 581 (3d Cir. 1986).

An injunction is not authorized by ERISA. *U.S. Steel Plan v. Musisko,* 885 F.2d 1170 (3d Cir. 1988), *cert. denied,* 110 S. Ct. 1121 (1990).

REASONS FOR DENYING THE WRIT

I.

THE DISTRICT COURT'S DENIAL OF INJUNCTIVE RELIEF IS REQUIRED BY THE ANTI-INJUNCTION ACT, 28 U.S.C. § 2283.

The Anti-Injunction Act reads:

> A Court of the United States may not grant an injunction to stay proceedings in a State Court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

28 U.S.C. § 2283.

A. An Injunction Is Not Authorized in Aid of the District Court's Jurisdiction in this Matter.

Petitioners seek to enjoin the prosecution of state law claims for breach of employment contracts in *Nobers, et al. v. Crucible Inc., et al.*, No. 843-1984 (Court of Common Pleas of Beaver County, Pennsylvania) (*Nobers II*). Although Petitioners are not parties to the pending state action, they nonetheless seek to enjoin Respondents from proceeding in state court.

Petitioners assert the Employees Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* ("ERISA"), preempts *Nobers II*, despite the numerous rejections of this argument throughout the history of this case. *See Nobers v. Crucible, Inc.*, 602 F. Supp. 703, 708 (finding that *Nobers II*, "alleges only state law claims in contract and tort.") and *Nobers v. Crucible, Inc.*, 376 Pa. Super. 156, 545 A.2d 367 (1988) (finding that *Nobers II* relates "solely to the Defendants' liability for breach of an employment contract") 545 A.2d at 371.

Section 514 of ERISA provides that ERISA supersedes any and all state law insofar as they relate to an employee benefit plan. 29 U.S.C. § 1144. Petitioners rely upon *Ingersoll-Rand Co. v. McClendon*, 498 U.S. __, 112 L. Ed. 2d 474, 111 S. Ct. 478 (1990) where the Plaintiff claimed he was unlawfully discharged to prevent attainment of benefits under a plan covered by ERISA. In *Ingersoll-Rand*, a tort action, the existence of a pension plan was a critical factor in establishing a liability under the Texas Wrongful Discharge Law. In the state matter pending in *Nobers II*, liability turns upon the existence of a contract of employment and whether or not the Defendants breached that contract. Thus, in *Nobers II*, liability of the Defendants does not depend upon the existence of benefits plans and therefore *Ingersoll-Rand* is inapposite to *Nobers* II. Unlike Mr. McClendon, who had no cause of action absent a benefit plan, the Plaintiffs in *Nobers II* have a cause of action under state law whether or not a benefit plan exists.

Nobers II relates only to the liabilities of the parties to that action and the determination of the Court of Common Pleas in that case will not conclude the rights and liabilities of Petitioner benefit plans which are not parties to that action. An injunction cannot be *necessary* where Petitioners are not parties to *Nobers II* and that case will not determine Petitioners' obligations. *Nobers II* does not interfere with nor impair the District Court's consideration of disposition of the instant matter.

B. An Injunction Is Not Authorized to Protect or Effectuate Any Judgment of the District Court.

The relitigation exception to the Anti-Injunction Act is designed to permit a federal court to prevent state litigation of an issue previously presented to and decided by a federal court. An essential prerequisite for application of this exception is that the claims or issues which the federal injunction insulates from litigation and state proceedings actually have been decided by the federal court.

Relief from error, if any, is available through the state appellate courts and ultimately the United States Supreme Court. *Atlantic Coastline R. R. Co. v. Brotherhood of Locomotive Engineers*, 398 U.S. 281, 26 L. Ed. 2d 234, 90 S. Ct. 1739 (1970); *Chick Kam Choo v. Exxon Corp.*, 486 U. S. 140, 100 L. Ed. 2d 127, 108 S. Ct. 1684 (1988). Claims or injunctive relief pursuant to this relitigation exception to the Anti-Injunction Act have already been litigated and rejected in *Colt Industries, Inc. v. Nobers*, No. 85-563 (W.D. Pa. 1985), *aff'd memorandum*, 787 F.2d 581 (3d Cir. 1986), the Defendants in *Nobers II* sought the same injunction which Petitioners seek in the instant matter and were rejected by the District Court and the Third Circuit.

C. No Act of Congress Expressly Authorizes an Injunction in this Matter.

Although the state claims in *Nobers II* are not preempted by

ERISA, Petitioners argue that ERISA authorizes an injunction against Respondents. ERISA's enforcement language and legislative history are inadequate to demonstrate congressional intent to defeat the absolute bar against federal injunctions found in § 2283. *U.S. Steel Plan v. Musisko,* 885 F.2d 1170, 1177 (3d Cir. 1989), *cert. denied,* 110 S. Ct. 1121 (1990).

This request for injunctive relief is plainly anticipatory, seeks injunctive relief where there is available an adequate remedy at law if the Court of Common Pleas of Beaver County issues any order which involves Petitioners and seeks an injunction where no irreparable harm is threatened.

Where have Petitioners been since 1984? The Petitioners are represented by the same counsel who represent Colt and Crucible and Petitioners clearly have had knowledge of *Nobers II* since 1984. After the latest remand by the District Court, there is no more opportunity for Colt and Crucible to avoid this litigation in Beaver County. If Petitioners are compelled to seek this injunctive relief, why have they waited until 1990 when this action has been pleading in Beaver County since 1984?

Why have Appellants sought to enjoin Appellees from prosecuting *Nobers II*? The relief sought by Petitioners would inure principally to the benefit of the *Nobers II* defendants Colt and Crucible. The Petitioners could have sought to enjoin Respondents from seeking relief against Petitioners, but the Petitioners sought injunction relief not just for themselves, but also for Colt and Crucible. These Petitioners should not be permitted by injunctive relief to achieve for Colt and Crucible that which has been denied them throughout the history of this case.

CONCLUSION

For the foregoing reasons, the Petitioners' Writ of Certiorari should be denied.

Respectfully submitted,

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